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RUEHKO/AMEMBASSY TOKYO PRIORITY 1987
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RUEAIIA/CIA WASHDC PRIORITY
RUCPDOC/DEPT OF COMMERCE WASHINGTON DC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RHEFAAA/DIA WASHDC PRIORITY
RUEKJCS/JOINT STAFF WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY 1476
RUEHNO/USMISSION USNATO PRIORITY 2787
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SIPDIS
C O R R E C T E D C O P Y (MISSING PARA#6)

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TAGS: [PGOV](#) [PREL](#) [PINR](#) [PHUM](#) [OSCE](#) [KZ](#)
SUBJECT: KAZAKHSTAN: AMBASSADOR RAISES ZHOVTIS WITH FOREIGN MINISTER

REF A. ASTANA 1470
1B. SECSTATE 9449
1C. ASTANA 1494

Classified By: Ambassador Richard E. Hoagland: 1.4 (B), (D)

11. (C) SUMMARY: On September 10, the Ambassador and Kazakhstan's State Minister and Foreign Minister, Kanat Saudabayev, exchanged frank views on the Zhovtis case reftel A. The Ambassador delivered a strong message on the importance of a transparent appeals process and finding a way forward that ensures continued good bilateral relations. Saudabayev agreed to these points, but wondered why the international community demands special treatment for Zhovtis after years of promoting equality before the law. In a follow-on one-on-one meeting with the Ambassador, Saudabayev hinted Kazakhstan might use the appeals process to find a way out of this mess. END SUMMARY.

12. (SBU) Saudabayev thanked the Ambassador for his congratulations on his September 4 appointment as Foreign Minister. The Ambassador assured him that his wishes were sincere. In response to the Ambassador's comment that he wanted to start by talking about the "good parts" of his agenda, Saudabayev asked if they would then discuss the "sad parts." The Ambassador offered congratulations on the successful presentation of the National Human Rights Action Plan for 2009-2012 on September 9 septel. While calling it a significant step forward, the Ambassador noted concern that its approval did not include a presidential order for implementation. The Ambassador also passed the official letter from President Obama inviting President Nazarbayev to participate in the nuclear security summit next year reftel B. NOTE: The Embassy also sent the invitation via diplomatic note the same day. END NOTE.

WHY ATTENTION ONLY FOR ZHOVTIS?

13. (SBU) Handing Saudabayev the prepared non-paper in Russian and English on the Zhovtis case, the Ambassador said he was certain that Presidential Foreign Policy Adviser, Kairat Sarybai, had already fully briefed him on their meeting reftel C. NOTE: In fact, Saudabayev had a heavily annotated copy of the non-paper in his sheaf of briefing papers. END NOTE. The Ambassador said, "Mr. Minister, you and I have always worked hard to build our bilateral

relationship. Unfortunately, the Zhovtis case has caused a huge amount of concern. I want to find the steps forward. As I told Sarybai, in politics and diplomacy, often perception is more powerful than reality." Noting our respect for Kazakhstani law, he emphasized that the U.S. government "does not want to interfere in any way, and only asks that the court be fair and transparent during the appeals process when it considers the trial and sentence given Zhovtis."

¶4. (SBU) In response to the Ambassador's invitation for discussion, Saudabayev stated that Kazakhstan's law enforcement and judiciary fully realized their responsibility in issuing a decision on the case. He assured the Ambassador, "they are handling the case with maximum accuracy in order to allow no room for speculation in future." Saudabayev said he has his personal difficulty with the "huge wave of reaction" to the case, saying, "We have hundreds of people convicted for similar accidents who do not have as strong attorneys, media or material resources as Zhovtis. How can we talk about objectivity and equality for all, about the principles you the United States taught us during the last 18-19 years?"

¶5. (C) Saudabayev told the Ambassador that the overly strong and counter-productive reaction to the verdict has elicited a response opposite to the desired result. Saudabayev said that he "can understand high emotions on the part of NGOs, but foreign government interventions are not correct." Saudabayev asserted, "This accident is the last thing that the government of Kazakhstan needed, but it unfortunately occurred, and now it shall be handled fairly, without dividing people into first- or second-class citizens. Everybody is equal before the law."

¶6. (C) Saudabayev criticized Zhovtis' conduct, saying that he must have received a wrong message from the beginning and chosen a wrong way of behaving. (NOTE: Although he did not elaborate to whom he was referring, he was clearly hinting to Zhovtis' international connections. END NOTE.) Given all these points, Saudabayev asserted his difficulty in predicting the case's development. Again acknowledging the intense interest in the case, Saudabayev said that the "judiciary realized its huge responsibility, and the case's impact on Kazakhstan's image." He therefore stated his certainty that the case will be properly handled, "following the spirit and letter of the law with no moves to the left or right." Emphasizing again that any pressure is counter-productive, Saudabayev said, "No one can turn the process back and no one has the right. It is sad but we have what we have."

¶7. (C) To conclude, Saudabayev implored the Ambassador, "Let's exercise understanding." The Ambassador fully agreed with the final point and emphasized his desire "to work together to find a way forward." When he again assured Saudabayev that he was "not here to put pressure on you or your government," Saudabayev responded, "I did not refer to you." The Ambassador added, "You know how important it is to accurately reflect my government's views and U.S. public opinion, especially in a diverse, open society like the United States."

¶8. (C) The Ambassador also acknowledged his deep appreciation for Saudabayev's assertion that all are equal before the law and for reassurances that the appeals process will follow the letter of the law. Acknowledging that many do go to prison in cases of vehicular manslaughter, the Ambassador commented that there are usually aggravating circumstances, such as drinking and driving. After elaborating some details of the case, the Ambassador concluded, "I am not a lawyer. I am a diplomat. I only talk about details, because they might be helpful to consider during the appeals process." Saudabayev replied, "I also am not a lawyer and therefore cannot even comment on what you say, but the judiciary is interested in absolutely abiding by the law. Otherwise, they will have problems."

¶9. (C) At the end of the meeting, Saudabayev asked the ambassador to step into his private office alone. Having been uncharacteristically reserved, almost grim, throughout the official meeting, as had been Sarybai when he and the Ambassador discussed the Zhovtis case, as soon as the door was closed, Saudabayev broke into a wide smile and embraced the Ambassador. He showed an already-framed color photo of him sitting at his empty desk with President Nazarbayev, standing, smiling benignly at him. He insisted that he had had no clue that he would become foreign minister until 2:00 pm on September 3 when

Nazarbayev summoned him into his office and told him to "get ready to move." Insisting the Ambassador share a cup of tea with him, he said, "In his strange wisdom, God gave Kazakhstan Russia and China as neighbors. We have no choice but to be friends. God put the United States on the opposite side of the globe. We choose, we strongly desire to be your friend and partner." The Ambassador commented, "This Zhovtis case certainly doesn't make matters any easier for us." Saudabayev riposted, "And your public statement certainly didn't make matters any easier for me! He [Nazarbayev] went ballistic!" Spun up, Saudabayev added, "And Zhovtis himself made it all the worse immediately after his accident by running to his Western 'krysha' [Russian criminal slang for protector]." Then turning serious, Saudabayev said, "Listen to me very carefully. The appeals process will be totally fair. It will take time. Go to silence now; enough has been said. Let the process work to a proper conclusion."

¶10. (C) On September 11, newly-appointed Deputy Foreign Minister Kairat Umarov, again in a one-on-one meeting, told the Ambassador, "The Foreign Minister asked me to repeat what he told you in private yesterday to make sure you understand correctly. 'The points have been made. Go to silence now. Let the process work to a proper conclusion.'"

¶11. (C) COMMENT: While we can't be certain, and many twists and turns are possible along the way, we think that Nazarbayev has been stung by the rapid and strong international reaction, including the Embassy's public statement, to the Zhovtis case, and wants to find a way out of the mess without losing too much face, especially now that Kazakhstan is in the run-up to it's 2010 OSCE chairmanship. Stay tuned. END COMMENT.

HOAGLAND